

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

November 1, 2005

TO: Internal File

THRU: Priscilla W. Burton, Environmental Specialist III/Soils, Team Lead

FROM: Jerriann Ernstsens, Ph.D., Environmental Specialist III/Biologist

RE: MRP Rewrite, Andalex Resources, Inc., Wildcat Loadout, C/007/033, Task ID #2277

SUMMARY:

The Division received a third submittal of an amendment for reformatting the MRP on June 30, 2005. This memo describes the editorial review of the biology and cultural sections.

The Division conducted a minor technical review on newly submitted material during the first review (Task ID #1911). The Division decided, at a meeting on 1/25/05, to readdress deficiencies related to only to the reformatting of the MRP. The Division will postpone readdressing deficiencies related to technical matters during the review of a proposed amendment (not yet submitted) that will add approximately 12 acres to the disturbance area. The Division will readdress earlier deficiencies from the technical review of a one-acre expansion (Division, TA, July 8, 2003). The Permittee withdrew the related 2003 amendment.

TECHNICAL ANALYSIS:

GENERAL CONTENTS

PERMIT APPLICATION FORMAT AND CONTENTS

Regulatory Reference: 30 CFR 777.11; R645-301-120.

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Analysis:

The newly formatted MRP refers many of the sections from 301-311 through 301-322, 301-232, and 301-322 through 301-358 to appendices or sections 301-310, 301-331, and 301-240. Consequently, there are minor problems with the new format that include referenced material in sections unrelated to the regulation, referenced material is missing from sections/appendices, and reference material is incorrectly labeled as not applicable (NA). The Permittee must address these formatting issues to present the narrative more clearly (R645-301-121.200). The following list provides some of the areas to address:

- Update the correct number of plates on the Table of Plates. Table of Plates lists 1-20 instead of 1-28. Plate 21 is missing.
- Provide the missing document or remove the reference to Appendix B (Sec. 301-322.300), which does not provide correspondence with the USFWS. Appendix B provides many correspondences, but not from USFWS.
- Update the correct number of “items” (or entries) on the table for Appendix B. The current table lists 18 items, yet the MRP cites “item 21”.
- Relocate information concerning pest management in section 301-310 (p. 3-9) and 301-331 (p. 3-21) to the appropriate section in 301-341 or 301-357 series. The same information in section 301-357.320 (p. 3-30) is fine.
- Relocate all contents from section 301-331 to more appropriate sections* under e.g., 310-340/341. There is nothing in pages 3-14 through 3-21 that pertains to R645-301-331. Relocating this material will leave section 301-331 blank, which the Permittee must address during the next *technical* review. Consequently, removal of the narrative from 301-331 will affect other pages that the Permittee must address for this application:
 - Remove the nine citations “...see R645-301-331” from sections 301-340 and 301-341 (pgs. 3-22 to 3-23). *The information currently in section R645-301-331 should be separated by subject that relates to the regulation and relocated into the appropriate sections of 301-340/341.
 - Remove the eight citations “Also” from pages 3-14 to 3-21. *These citations will not be necessary given that the Permittee will relocate the information to those *cited* sections.
 - Change the citation “see R645-301-331” from sections 301-355 (p. 3-27), 301-357-200 and 301-357.220 (p. 3-29), and 301-357.311 (p. 3-30) to the appropriate sections in the 301-340/341 series. *The current citation will not be correct given that the Permittee will relocate the information from section 301-331 to more appropriate sections.
- Clarify what is meant by “hydroseeded and hydromulched due to...” (p. 3-19).
- Cite the map in section 301-323.100 - do not cite a section. Removing this citation may leave this section blank (if there is not a map showing reference areas), which the Permittee must address during the next *technical* review.

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- Relocate confidential information from the approved Volume I, Appendix A to a Confidential Binder. The Permittee will need:
 - New binder with appropriately labeled cover, spine, and tabs.
 - Relocation pages for pages 4-2 and 4-3.
 - Relocation page for Volume Appendix A
- Provide clearly labeled volume covers. The Division suggests that the Permittee provide and label the MRP volumes as follows: Volume I (Chapters 1-10), Volume II (Plates), Volume III (Appendices), and Confidential Binder.

Findings:

Information provided in the plan does not meet the minimum Permit Application Format and Contents in General Contents requirements of the regulations. Prior to approval, the Permittee must act in accordance with the following:

R645-301-121.200, Address these formatting issues that relate to biological and cultural disciplines to present the narrative more clearly.

REPORTING OF TECHNICAL DATA

Regulatory Reference: 30 CFR 777.13; R645-301-130.

Analysis:

The contents in the technical reports are the same and still in the folder of the approved MRP appendix section.

Findings:

Information provided in the plan meets the minimum Reporting of Technical Data in General Contents requirements of the regulations.

ENVIRONMENTAL RESOURCE INFORMATION

Regulatory Reference: Pub. L 95-87 Sections 507(b), 508(a), and 516(b); 30 CFR 783., et. al.

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HISTORIC AND ARCHEOLOGICAL RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.12; R645-301-411.

Analysis:

All content concerning Historic and Archeological Resources is the same in the newly formatted version.

Findings:

Information provided in the plan meets the minimum Environmental - Historic and Archeological Resource Information requirements of the regulations.

VEGETATION RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.19; R645-301-320.

Analysis:

All content concerning Vegetation Resources is the same in the newly formatted version.

Findings:

Information provided in the plan meets the minimum Environmental - Vegetation Resource Information requirements of the regulations.

FISH AND WILDLIFE RESOURCE INFORMATION

Regulatory Reference: 30 CFR 784.21; R645-301-322.

Analysis:

All content concerning Fish and Wildlife Resources is the same in the newly formatted version.

The MRP does not include correspondence documents to USFWS concerning TES species. During the next technical review, the Permittee must address this requirement in section 322.300. Furthermore, the Permittee must address the deficiencies in the TA dated July 8, 2003 related to TES species. Although the Permittee withdrew the related amendment, the deficiencies are still an issue.

Findings:

Information provided in the plan meets the minimum Environmental - Fish and Wildlife Resource Information requirements of the regulations.

MAPS, PLANS, AND CROSS SECTIONS OF RESOURCE INFORMATION

Regulatory Reference: 30 CFR 783.24, 783.25; R645-301-323, -301-411, -301-521, -301-622, -301-722, -301-731.

Analysis:

Biological and cultural maps are the same and still in the folder of the approved MRP appendix section or the folder with Plates.

Findings:

Information provided in the plan meets the minimum Environmental - Maps, Plans, and Cross Section Resource Information requirements of the regulations.

OPERATION PLAN

FISH AND WILDLIFE INFORMATION

Regulatory Reference: 30 CFR Sec. 784.21, 817.97; R645-301-322, -301-333, -301-342, -301-358.

Analysis:

Protection and Enhancement Plan

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All content concerning Fish and Wildlife Information is the same in the newly formatted version.

One of the largest problems that Wildcat faces is the build up of coal fines off the permit boundary. The Permittee must address this issue in the near future.

The Permittee references Appendix E for the discussion on wildlife nutrition. This document loosely discusses how reclamation measures addresses the nutritional requirements of wildlife. During the next technical review, the Permittee must address this requirement in the appropriate section in 301-342 series. The Division recommends avoiding using any of the existing appendices as a reference.

Endangered and Threatened Species

Adverse results of mining on water quantity to the Colorado River drainages affects four Colorado River endangered fish species (Colorado pikeminnow [squawfish], humpback chub, bonytail chub, and razorback sucker). The USFWS considers depletions or significant changes to contributions to the Colorado River drainage as a potential jeopardy to these endangered fish. Water users may have to mitigate if there are considerable changes to contributions or if water consumption is greater than 100 acre-feet per year. Currently, the mitigation fee is approximately \$16.00 per acre-foot of depletion, but may change marginally from year to year.

The Permittee provides water consumption values. During the next technical review, however, the Permittee must provide all equations and justifications with supporting documentation leading to the overall sum of water depletions or additions for all operations including dust control in the MRP section R645-301-333. The Permittee may use the following paper as a guideline "Windy Gap Process As It Applies To Existing Coal Mines In The Upper Colorado River Basin". In brief, consider the following water-using operations:

- Mining consumption
- Ventilation consumption
- Coal producing consumption
- Ventilation evaporation
- Sediment pond evaporation
- Springs and seep effects from subsidence
- Alluvial aquifer abstractions into mines
- Alluvial well pumpage
- Deep aquifer pumpage
- Post mining inflow to workings
- Coal moisture loss

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- Direct diversions
- Dust suppression (not mentioned in Windy Gap)

Findings:

Information provided in the plan meets the minimum Operations - Fish and Wildlife Information requirements of the regulations.

VEGETATION

Regulatory Reference: R645-301-330, -301-331, -301-332.

Analysis:

All content concerning Vegetation is the same in the newly formatted version.

During the next technical review, the Permittee must address questions concerning the substitution of topsoil with fill material.

Findings:

Information provided in the plan does not meet the minimum Operations - Vegetation requirements of the regulations.

RECLAMATION PLAN

GENERAL REQUIREMENTS

Regulatory Reference: PL 95-87 Sec. 515 and 516; 30 CFR Sec. 784.13, 784.14, 784.15, 784.16, 784.17, 784.18, 784.19, 784.20, 784.21, 784.22, 784.23, 784.24, 784.25, 784.26; R645-301-231, -301-233, -301-322, -301-323, -301-331, -301-333, -301-341, -301-342, -301-411, -301-412, -301-422, -301-512, -301-513, -301-521, -301-522, -301-525, -301-526, -301-527, -301-528, -301-529, -301-531, -301-533, -301-534, -301-536, -301-537, -301-542, -301-623, -301-624, -301-625, -301-626, -301-631, -301-632, -301-731, -301-723, -301-724, -301-725, -301-726, -301-728, -301-729, -301-731, -301-732, -301-733, -301-746, -301-764, -301-830.

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Analysis:

All content concerning General Requirements is the same in the newly formatted version, except the change in the seed mix.

Findings:

Information provided in the plan meets the minimum Reclamation - General Requirements of the regulations.

RECOMMENDATIONS:

Do not approve the amendment until all deficiencies have been addressed.